

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KENNETH CONLIN

Plaintiff,

-vs-

CASE NO. 1:16-cv-01140
HON. ROBERT J. JONKER

VILLAGE OF CENTREVILLE,
and LUKE J. DELCOURT,
in his individual and official capacity,

Defendants.

CHRISTOPHER TRAINOR & ASSOCIATES CHRISTOPHER J. TRAINOR (P42449) AMY J. DEROUIN (P70514) Attorneys for Plaintiff 9750 Highland Road White Lake, MI 48386 (248) 886-8650 / (248) 698-3321-fax Amy.derouin@cjtrainor.com	PLUNKETT COONEY ROBERT A. CALLAHAN (P47600) Attorney for Defendants 950 Trade Centre Way, Ste. 310 Kalamazoo, MI 49002 269-226-8851 269-382-2506-fax rcallahan@plunkettcooney.com
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PLAINTIFF'S PROPOSED STATEMENT OF THE CASE AND ELEMENTS

Statement of the Case

This case arises out of an incident occurring on September 19, 2014, between Plaintiff Conlin and Defendant DelCourt. At the time of the incident, Defendant DelCourt was the chief of police and policymaker for Defendant Village of Centreville. Plaintiff Conlin claims that Defendant DelCourt used excessive or unreasonable force against him while he was handcuffed during the course of his arrest. This violated his civil rights under the Fourth Amendment to the United States Constitution, which prohibits the use of excessive or unreasonable force during an arrest. In addition, Plaintiff Conlin alleges that Defendant Village of Centreville is liable for Defendant

DelCourt's constitutional violations against Plaintiff Conlin because he was a policymaker for the Village of Centreville. Plaintiff Conlin also claims that Defendant Village of Centreville is liable because it engaged in constitutional violations with respect to customs, practices and/or policies relating to the failure to adequately train and/or supervise its officers regarding the appropriate use of force. Plaintiff Conlin claims that he suffered injuries and damages as a result of Defendants' actions and/or inactions. Defendant DelCourt denies that any force used was excessive or unreasonable. Defendant Village of Centreville also denies Plaintiff Conlin's claims.

Elements

A. Fourth Amendment Excessive Force

The factors to be considered in determining whether the use of force employed by Defendant DelCourt against Plaintiff Conlin was excessive or unreasonable are as follows:

1. Defendant DelCourt acted under color of state law (this element has been met);
2. Defendant DelCourt deprived Plaintiff Conlin of his Fourth Amendment right to be free from the use of excessive or unreasonable force; and
3. As a proximate result, Plaintiff suffered injuries and damages.

B. Monell Claims Against Defendant Village of Centreville:

The factors to consider in considering whether to attribute liability to Defendant Village of Centreville:

1. Whether the actions of Defendant DelCourt, as the chief of police and policymaker, against Plaintiff Conlin deprived Plaintiff Conlin of his Fourth Amendment rights; or
2. Whether Defendant Village of Centreville had a custom or policy or practice of failing to train or supervise its police officers; and
3. Was the failure to train, supervise, and/or the fact that Defendant DelCourt was the policymaker for Defendant Village of Centreville a moving force behind Defendant DelCourt's unconstitutional acts against Plaintiff Conlin.

Respectfully Submitted,
CHRISTOPHER TRAINOR & ASSOCIATES

s/ Amy J. DeRouin
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Dated: February 13, 2018
CJT/ajd

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2018, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: **Robert A. Callahan, Esq.** and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: **None**.

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